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ABROGATION OF TREATIES WITH CHINA, AND ABSOLUTE
PROHIBITION OF CHINESE IMMIGRATION.

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SPEECH

OF

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HON. JOHN H. MITCHELL,
OF OREGON,

IN THE

SENATE OF THE UNITED STATES,

FRIDAY, FEBRUARY 26, 1886.

WASHINGTON.
1886.

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**Abrogation of Treaties with China, and Absolute Prohibition of
Chinese Immigration.**

SPEECH

OF

HON. JOHN H. MITCHELL.

On the bill (S. 1488) abrogating all treaties heretofore made and now operative between the United States Government and the Chinese Empire, in so far as they, or any of them, provide for, recognize, or permit the coming of Chinese to the United States; and in so far as they, or any of them, inhibit the United States from absolutely prohibiting the coming of Chinese to the United States, and repealing all acts of Congress in so far as they, or any of them, recognize or permit the coming of Chinese to the United States, and absolutely prohibiting the coming of Chinese to the United States, excepting only diplomatic, consular, and other officers, and prohibiting the landing of any Chinese therein, excepting only such diplomatic and other officers.

Mr. MITCHELL, of Oregon, said:

Mr. PRESIDENT: Nothing but the deepest sense of official duty and obligation to a devoted, generous, and deserving constituency could induce me at this early day in my term to obtrude myself on the attention of the Senate, and thus in a sense and to a certain degree violate that unwritten law of this body, so well understood but not always observed, in reference to the privileges of new members. I trust the importance and urgency of the questions involved, coupled with the fact of the peculiar and intimate relation they bear to the people of the State and coast I in part have the honor of representing, will justify me in doing that which under other circumstances might seem something of an impropriety.

It is a rule, recognized by physicians and surgeons, that desperate cases in medicine and surgery require heroic treatment; when the cancer is malignant and uncompromising, is making unrestrained inroads on the system and startling headway toward the vitals, all temporizing with narcotics, herbs, and palliatives must give way to the knife; and though the emergency and the means may compel the sacrifice of human blood in order to save human life, the ulcerous, devouring sore must, with all its cancerous roots, be cut from the body and cast away. So it is with the body-politic. When it is assailed by an extraordinary evil, menaced by an unyielding and rapidly advancing vice, which brings into grave and imminent peril not only the best interests of our people but the most cherished institutions of our country the time for temporizing has passed away; the more ordinary remedies must be put in the background, and the amenities which under other circumstances should be observed toward foreign powers and their subjects must,

upon the principle of self-preservation give way to such heroic and aggressive measures as the necessities of the case render absolutely essential. In the case under consideration such treatment seems necessary to the vindication of the most sacred rights and privileges of our people, the maintenance of our civilization, and the preservation of the domestic peace and tranquillity of the Republic.

Such an evil, a vice more terrible in its tendencies, more degrading in its influences than has been suggested, is to-day not merely paralyzing the rights of the laboring classes, not only absolutely destroying the interests of American labor in a large section of this country, not only fastening its fangs and exuding its leprous virus into the very vitals of the moral and physical being of our body-politic, and casting physical and moral infection on every side, but, worse than all this, absolutely disturbing the public peace, creating internal dissension and strife, and bringing into the most imminent peril the domestic tranquillity of our people, the Christian civilization of the age, and the general welfare of our nationality.

From such an evil are the people of the whole Pacific coast suffering to-day through the presence in their midst of large numbers of an unclean, non-assimilating, and pagan race. To such an infliction, national in its character, malignant and devilish in its tendencies, are they now subjected. Impending over them and gradually but surely extending its dominion eastward like a cloud of wrath, it imperils the rights of labor, of property, of peace, of life itself. To meet and successfully grapple with and finally subdue and eradicate from our land this dire scourge will require some more heroic treatment, some more vigorous remedy, some more emphatic measure, some firmer, more decided, and aggressive governmental step than has ever yet been taken by the American Congress or the Government of the United States through any of its departments or instrumentalities, and one, moreover, which never can be taken rightfully or properly and at the same time preserve inviolate the present existing treaty stipulations between the United States Government and the Chinese Empire, and such an one, moreover, which in my judgment we can not within any reasonable time hope to obtain through the treaty-making power by any further negotiations with the empire.

Hence it is that in the measure which I have submitted, and which is now under consideration, it is proposed that the States and the people of this Republic, as they constitutionally and of right may do, through their Senators and Representatives in the Congress of the United States, with the approval of the Executive, or even by a sufficient vote of the Congress without his approval, remove those barriers that have for years stood in the way of Congress in the form of treaty stipulations, and which have restricted and prevented it from inaugurating the necessary measures and exercising the requisite powers to successfully deal with this momentous question—with this herculean evil.

In other words, it is proposed by the bill under discussion as a first essential step to clear the way of all obstructions, so that Congress may constitutionally and rightfully rise in the scale of legislative power and action to that position which time and circumstance have demonstrated is absolutely necessary to meet this political scourge, by wiping out of existence every treaty stipulation with China which in any manner or in any form recognizes or permits the coming of Chinese to this country, or which inhibits the United States from absolutely prohibiting Chinese immigration to the United States; and then, the right of way

to Congress being thus clearly secured, the bill proposes to absolutely prohibit the coming of Chinese whether subjects of the Chinese Empire or otherwise, as well those who have been here and have returned, those who are now here and who may hereafter leave the United States and attempt to return, as those who have never yet been within our limits, to any port or place within the United States, or from landing or remaining therein, excepting only diplomatic, consular, or other commissioned officers and their household and body servants.

In considering this bill two questions of importance present themselves:

First. Has the United States the constitutional right or power by an act of the Congress to abrogate or repeal a treaty with a foreign nation; and

Second. If so, does the importance to this country of the questions involved, the magnitude of the evil to be dealt with, the interests of the people to be subserved, the institutions that are to be protected, the peril that is to be wardoned off, and the preservation and vindication of the public peace, justify the step proposed?

First, as to the constitutional power of Congress to abrogate or repeal an existing treaty between the United States and a foreign nation. And, further, does a subsequent act of Congress repeal and abrogate the provisions of a prior treaty with a foreign nation in so far as it conflicts with such provisions?

These are propositions so well settled as to require but little more than the statement of the proposition and a reference to the decisions of the Supreme Court of the United States. And but for the fact that this power has, since the introduction of the bill under discussion, and with an air of self-importance as amazing as it is absurd and ridiculous, been flatly denied by one of the great journals of the metropolis (the New York Times) and its senseless assertion taken up and, parrot-like, repeated in an ignorant as well as an offensive manner by the Post of the national capital, no argument whatever in its support would now be offered.

The morning subsequent to the introduction of the bill under consideration the New York Times, in its issue of the 12th instant, had the following editorial:

Senator MITCHELL, of Oregon, has introduced a new anti-Chinese bill by which he coolly proposes to sweep away all treaty provisions which stand in the way of an absolute prohibition of Chinese immigration, and to exclude from the country all Mongolian immigrants and prevent the return of any that may leave the country. The logical sequel of this kind of legislation would be a provision for sending out of the country all the Chinese now here, which would place us squarely on the policy of China of a generation ago. The chief drawback about this policy is that it does not discriminate on the proper lines. If we are to exclude from this country objectionable immigrants we should so draw the line as to exclude those that are objectionable because they are objectionable, and not those that belong to one particular race because they belong to that race. If we are going to filter the incoming population we should so arrange our strainers as to exclude the scum. *It may be stated also for Senator Mitchell's information that treaties can not be amended or abrogated by statute law.*

While in its issue of February 15 the constitutional expounder of the Washington Post exposed his consummate stupidity on the subject by the following editorial:

The anti-Chinese bill introduced by Senator MITCHELL, of Oregon, shows two things—his narrow-mindedness and his ignorance. He proposes to sweep away all treaty obligations that affect immigration from China. Yet, he ought to know that a treaty can not be abrogated by an act of Congress. His bill prohibits all Chinese immigration. The purpose is to prevent the admission to the country of objectionable immigrants. But this bill declares against a cer-

tain class, not because they are objectionable, but because they are Chinese. The illiberality and the ignorance seem to be furnished in equal quantities.

Now, then, Mr. President, as the constitutional lawyers of the New York Times and the Washington Post have, in the infinitude of their professional wisdom and the profundity of their constitutional and international lore, so kindly for my information volunteered the statement that "treaties can not be amended or abrogated by statute law," I shall take the liberty for *their* information, as also for all interested, to attract attention to a few suggestions upon that point; and I do this not so much for the mere purpose of proving what every lawyer knows to be true—that is to say, that Congress has the undoubted power to abrogate our existing treaties with China—but rather for the purpose of calling attention to the fact that our courts, lawyers, jurists, and best statesmen while conceding this power, have concurred as to the duty of Congress to abrogate a treaty whenever it is pernicious in its operations or ruinous to the state. And in this connection I assert it as a fact that the doctrine that a subsequent act of Congress in so far as it conflicts with the provisions of a prior treaty with a foreign power or an Indian tribe abrogates the treaty to that extent, is one that has received the unqualified sanction of every department of this Government, legislative, executive, administrative, and judicial, and no man but an ignoramus in the profession, and I might perhaps say with propriety in every other respect as well, would expose himself or his paper to ridicule by asserting to the contrary.

True, article 6 of the Constitution provides that—

This Constitution, and the laws of the United States which shall be made in pursuance thereof, and all treaties made, or which shall be made, under the authority of the United States, shall be the supreme law of the land.

Even though the doctrine that a subsequent statute in direct conflict with a prior statute, whether purporting to repeal the former, or that otherwise operates as such repeal, could not be properly applied to a case of a subsequent statute coming in direct conflict with a prior treaty, the contention can be successfully maintained, and has been time out of mind, that for certain great purposes for which the Constitution was ordained and established by the people of the United States, such as the common defense and general welfare, including the power to declare war; to regulate commerce with foreign nations and among the several States; to levy and collect taxes, duties, imposts, and excises; to coin money and regulate the value thereof; to raise and support armies; to borrow money on the credit of the United States; to establish a uniform rule of naturalization; to promote the progress of science and useful arts; to provide and maintain a navy; and in fact all the powers vested in Congress by the Constitution, the powers so vested can not be taken away, impaired, or in any manner abridged by the Executive and the Senate in pursuance of the exercise of the treaty-making power.

The supreme right on the part of the Government to exercise at all times and under all circumstances through the Congress any power delegated to it by the Constitution, and the exercise of which in its judgment may become necessary to the vindication of the great rights which pertain to the common defense and the general welfare, stands pre-eminent, above and beyond the reach or assaillment of any other power, whether executive, judicial, or administrative; and the treaty-making power, although guaranteed by the Constitution, is limited and subordinated to the exercise by Congress of those supreme powers necessary to the execution of the general purposes specified, for which the Con-

stitution was ordained, and the right to exercise which are by the terms of the Constitution, specifically or inferentially, granted to Congress.

Story in his Commentaries on the Constitution, volume 3, section 1502, makes the following statement:

The treaty-making power is necessarily and obviously subordinate to the fundamental laws and constitution of the state, and it can not change the form of the Government or annihilate its constitutional powers.

Story in his Commentaries on the Constitution again in section 1508, volume 2, in speaking of the treaty-making power remarks as follows:

The power to make treaties is by the Constitution general, and of course it embraces all sorts of treaties—for peace or war, for commerce or territory, for allowance or succors, for indemnity for injuries or payment of debts, for the recognition and enforcement of principles of public law, and for any other purposes which the policy or interests of independent sovereigns may decide in their intercourse with each other. But though the power is thus general and unrestrained, it is not to be so construed as to destroy the fundamental law of the state.

A power given by the Constitution can not be construed to authorize a destruction of other powers given in the same instrument. It must be construed, therefore, in subordination to it, and can not supersede or interfere with any other of its fundamental provisions. Each is equally obligatory and of paramount authority within its scope, and no one embraces a right to annihilate any other. A treaty to change the organization of the Government or annihilate its sovereignty, to overturn its republican form, or to deprive it of its constitutional powers, would be void, because it would destroy what it was designed merely to fulfill—the will of the people.

Inasmuch, therefore, as the Congress has by virtue of an express grant in the Constitution the "power to regulate commerce with foreign nations," and inasmuch as the Burlingame treaty is in all its essential particulars nothing more nor less than a regulation of commerce between the United States and China, and as an act of Congress inhibiting the coming of Chinese to this country and absolutely excluding them from it would be the exercise of the power to regulate commerce with foreign nations, it therefore follows that the making of the treaty did not and constitutionally could not, in any manner or in any respect, impair the power of Congress to pass a prohibitory act whenever in its judgment it became necessary to do this; and to hold that the Burlingame treaty and the treaty supplementary thereto should be construed as an inhibition on the power of Congress to pass a prohibitory law, would be simply to declare that the treaty itself was absolutely void, because in such a case the effect of the treaty would be to deprive Congress of its constitutional power.

But the doctrine that a subsequent act of Congress abrogates a prior treaty in so far as it conflicts with its provisions is one that has been recognized in this Government since the matter was first discussed or the question raised nearly ninety years ago; and it has received the sanction of every department of the Government—legislative, executive, administrative, and judicial—commencing with its exercise by Congress, when in July 7, 1798, an act of Congress was passed abrogating our treaties with France. That act declared among other things as follows:

That the United States are of right freed and exonerated from the stipulations of the treaties and of the consular convention heretofore concluded between the United States and France; and that the same shall not henceforth be regarded as legally obligatory on the Government of the United States or citizens of the United States.

But not only so. The Department of Justice has through its Attorneys-General, at different times, proclaimed this doctrine in unqualified terms. Attorney-General Crittenden (see Opinions Attorneys-General,

volume 5, page 345), in discussing the question of conflict between a prior treaty and a subsequent act of Congress with reference to the Florida claims, uses the following language:

An act of Congress is as much a supreme law of the land as a treaty. They are placed on the same footing, and no preference or superiority is given to the one or the other. The last expression of the law-giving power must prevail; and just for the same reason and on the same principle that a subsequent act must prevail and have effect, though inconsistent with a prior act, so must an act of Congress have effect though inconsistent with a prior treaty.

Again, Attorney-General Akerman, as late as the year 1870, in the case of the Choctaw Indians (see Opinions Attorneys-General, volume 13, page 357), said:

There is nothing in the Constitution which assigns different ranks to treaties and to statutes; both the one and the other, when not inconsistent with the Constitution, seem to stand upon the same level and to be of equal validity; and as in the case of all laws emanating from an equal authority, the earlier in date yields to the later.

But not only so. Repeatedly has the Federal judiciary through its circuit and supreme courts, without reserve, doubt, or qualification of the doctrine, held that the power to abrogate a treaty with a foreign power, as well as with the Indian tribes, does not rest exclusively with the Executive and the Senate, but does reside in the Congress. The court, in *Taylor vs. Martin* (2 Curtis's Circuit Court Reports, 454), in discussing this subject, uses the following language:

It is impossible to maintain that under our Constitution the President and the Senate exclusively possess the power to modify or repeal a law found in a treaty. If this were true no change in a treaty could be made without the consent of some foreign government. That the Constitution was designed to place our country in this helpless condition is a supposition wholly inadmissible. It is not only inconsistent with the necessities of a nation, but negated by the express words of the Constitution. That gives to Congress, in so many words, power to declare war, an act which *ipso facto* repeals all treaties inconsistent with a state of war. It can not, therefore, be admitted that the only method of escape from a treaty is by the consent of the other party to it or a declaration of war.

To refuse to execute a treaty for reasons which approve themselves to the conscientious judgment of a nation is a matter of the utmost gravity, but the power to do so is a prerogative of which no nation can be deprived without deeply affecting its independence. That the people of the United States have deprived their Government of this power I do not believe; that it must reside somewhere and be applicable to all cases I am convinced, and I feel no doubt that it belongs to Congress.

But the Supreme Court of the United States, the supreme arbiter in all questions of this character, finally settled the doctrine beyond the power of future controversy in this country in the case known as "the Cherokee Tobacco case," reported in 11 Wallace, page 616. The court in that case, opinion by Mr. Justice Swayne, uses the following language:

The effect of treaties and of acts of Congress, when in conflict, is not settled by the Constitution. But the question is not involved in any doubt as to its proper solution. The treaty may supersede a prior act of Congress (2 Peters, 314), and an act of Congress may supersede a prior treaty (2 Curtis, 454; 1 Woolworth, 155).

In the cases referred to these principles were applied to treaties with foreign nations. Treaties with Indian nations can not be more obligatory. They have no higher sanctity and no greater inviolability or immunity from legislative invasion can be claimed for them. The act of Congress must prevail as if the treaty were not an element to be considered. If a wrong has been done the power of redress is with Congress, not with the judiciary.

This doctrine, so well settled that it is a matter of amazement that any one, much less the constitutional expounders of great metropolitan journals, should assert to the contrary, was fully recognized by Presi-

dent Hayes in his veto message of March 1, 1879, wherein he gave his reasons for withholding his approval of the bill passed both Houses of that Congress restricting the immigration of Chinese to the United States; although on the ground of policy solely he vetoed the bill, he in terms recognized the power of Congress to abrogate the Burlingame treaty in these words:

The authority of Congress to terminate a treaty with a foreign power, by expressing the will of the nation no longer to adhere to it, is as free from controversy under our Constitution as is the further proposition that the power of making new treaties or modifying existing treaties is not lodged by the Constitution in Congress, but in the President, by and with the advice and consent of the Senate, as shown by the concurrence of two-thirds of that body.

A further declaration is made in this message:

A denunciation of any treaty by any government is confessedly justifiable only upon some reason, both of the highest justice and of the highest necessity.

And in this connection it may not be out of place to attract attention to the fact that in the passage of the bill in the Forty-fifth Congress abrogating the Burlingame treaty the two Houses of Congress by a most decided vote declared not only in favor of the power of Congress to abrogate a treaty with a foreign power, but did actually in that particular instance, in so far as the Congress could do it in the absence of executive approval, absolutely abrogate, set aside, and repeal the Burlingame treaty. The vote on the passage of that bill was in the House of Representatives 155 yeas, 72 nays, not voting 61, and most of whom were paired. The vote in detail is as follows:

YEAS—155.

Acklen,	Davidson,	Hooker,	Belly,
Aiken,	Davis, H. race	House,	Rice, Americus V.
Aldrich,	Deering,	Hubbell,	Robertson,
Atkins,	Dibrell,	Hunton,	Robinson, M. S.
Bailey,	Dickey,	Ittner,	Ross,
Baker, John H.	Durham,	Jones, Frank	Ryan,
Baker, William H.	Eden,	Jones, James T.	Sapp,
Banning,	Elam,	Keightley,	Saylor,
Bayne,	Ellis,	Kenna,	Scales,
Beebe,	Ellsworth,	Ketcham,	Shallenberger,
Bell,	Errett,	Killingier,	Singleton,
Benedict,	Evans, James L.	Kimmel,	Slemons,
Bicknell,	Evins, John H.	Knapp,	Smith, William E.
Blackburn,	Ewing,	Landers,	Southard,
Blair,	Felton,	Ligon,	Sparks,
Bliss,	Finley,	Lockwood,	Steele,
Blount,	Fort,	Luttrell,	Stenger,
Boone,	Foster,	Mackey,	Throckmorton,
Brentano,	Freeman,	Maish,	Townsend, Amos
Brewer,	Garth,	Majors,	Townsend, R. W.
Bright,	Gause,	Manning,	Turner,
Buchner,	Gibson,	Martin,	Turney,
Cabell,	Giddings,	Mayham,	Vance,
Caldwell, John W.	Glover,	McMahon,	Van Vorhees,
Caldwell, W. F.	Gunter,	Metcalfe,	Walker,
Calkins,	Hale,	Mills,	Ward,
Campbell,	Hamilton,	Money,	White, Michael D.
Chalmers,	Hanna,	More,	Whitthorne,
Clarke of Kentucky,	Harmer,	Muldrow,	Wigginton,
Clark of Missouri,	Harrison,	Neal,	Williams, Jere N.
Cobb,	Hartzell,	O'Neill,	Williams, Richard
Cole,	Hatcher,	Page,	Willis, Albert S.
Cook,	Hayes,	Patterson, T. M.	Willits,
Covert,	Hazelton,	Peddie,	Wilson,
Cox, Jacob D.	Henkle,	Pollard,	Wren,
Cox, Samuel S.	Herbert,	Potter,	Wright,
Cravens,	Hewitt, Abram S.	Pound,	Yeates,
Crittenden,	Hewitt, G. W.	Rea,	Young, John S.
Cummings,	Hiscook,	Reagan,	

NAYS—72.

Bacon,	Craigo,	Lathrop,	Sampson,
Bagley,	Cutler,	McCook,	Sexton,
Banks,	Danford,	McGowan,	Sinnickson,
Bisbee,	Denison,	Mitchell,	Smalls,
Bonck,	Dunnell,	Monroe,	Smith, A. Herr
Bragg,	Dwight,	Morgan,	Starin,
Briggs,	Eames,	Norcross,	Stephens,
Brogden,	Hardenbergh,	Overton,	Stewart,
Bundy,	Harris, Benj. W.	Patterson, G. W.	Strait,
Burchard,	Harris, Henry R.	Phelps,	Swann,
Burdick,	Hart,	Pridemore,	Thompson,
Cain,	Hendee,	Pugh,	Tipton,
Candler,	Henderson,	Rafney,	Townsend, M. I.
Cannon,	Humphrey,	Randolph,	Waddell,
Caswell,	Hungerford,	Reed,	Warner,
Chittenden,	James,	Rice, William W.	Watson,
Clark, Ruah	Jones, John S.	Robbins,	Williams, C. G.
Conger,	Joyce,	Robinson, G. D.	Williams, James.

NOT VOTING—61.

Ballou,	Evans, I. Newton	Lapham,	Springer,
Bland,	Forney,	Lindsey,	Stone, John W.
Boyd,	Franklin,	Loring,	Stone, Joseph C.
Bridges,	Frye,	Lynde,	Thornburgh,
Browne,	Fuller,	Marsh,	Tucker,
Butler,	Gardner,	McKenzie,	Veeder,
Camp,	Garfield,	McKinley,	Walt,
Carlisle,	Goode,	Morrison,	Walsh,
Claffin,	Harris, John T.	Muller,	White, Harry
Clark, Alvah A.	Haskell,	Oliver,	Williams, Andrew
Clymer,	Henry,	Phillips,	Willis, Benj. A.
Collins,	Hunter,	Powers,	Wood,
Culbertson,	Jorgensen,	Price,	Young, Casey.
Davis, Joseph J.	Kelifer,	Riddle,	
Dean,	Kelley,	Roberts,	
Eickhoff,	Knott,	Shelley,	

So the bill was passed.

During the call of the roll the following announcements were made:

Mr. MULLER. On this question I am paired with my colleague from New York, Mr. Willis. If he were present, he would vote "no" and I would vote "ay."

Mr. HUNTON. My colleague, Mr. Goode, is absent by reason of sickness and is paired with Mr. Camp, of New York.

Mr. HAMILTON. My colleagues, Mr. Brown and Mr. Fuller, are absent and paired. I do not know how they would vote if they were here.

Mr. PHELPS. I desire to announce that on this question Mr. Ballou, of Rhode Island, is paired with Mr. Henry, of Maryland.

Mr. HERBERT. My colleague, Mr. Forney, is absent by order of the House, serving on a committee.

Mr. TUCKER. I am paired generally on all political questions with Mr. Lapham, of New York.

Mr. HARRIS, of Virginia. I am paired with Mr. Walt, of Connecticut.

Mr. RYAN. My colleague, Mr. Phillips, is absent on important business. If present, I think he would vote "ay."

Mr. HALE. My colleague, Mr. Frye, is absent by order of the House, serving on a committee.

Mr. BAKER, of Indiana. My colleague, Mr. Brown, is absent by reason of sickness.

Mr. METCALFE. I am paired with my colleague, Mr. Bland. As I am assured that if present he would vote "ay," I will vote "ay."

Mr. SPOON, of Iowa. I am paired with Mr. Shelley, of Alabama. If he were here, I would vote "no."

Mr. HENKLE. On political questions my colleague, Mr. Henry, is paired with Mr. Ballou, of Rhode Island.

Mr. BOYD. I am paired with Mr. Roberts, of Maryland.

Mr. OLIVER. I am paired with Mr. Carlisle, of Kentucky. If he were here, I would vote "no" and I am informed he would vote "ay."

Mr. MCKENZIE. I am paired with Mr. Powers, of Maine.

Mr. HASKELL. I am paired with Mr. Knott, of Kentucky.

Mr. WHITE, of Pennsylvania. I am paired with Mr. McKinley, of Ohio.

Mr. BRAGG. My colleague, Mr. Lynde, is absent by order of the House, serving on a committee.

Mr. MAISH. My colleague, Mr. Clymer, is absent on account of sickness. Mr. EVANS, of Pennsylvania. I am paired with my colleague, Mr. Clymer. The result of the vote was then announced as above stated. Mr. COX, of New York, moved to reconsider the vote by which the bill was passed; and also moved that the motion to reconsider be laid on the table. The latter motion was agreed to.

The vote in the Senate was yeas 39, nays 27; as follows:

YEAS—39.

Allison,	Eaton,	McPherson,	Saunders,
Bailey,	Eustis,	Maxey,	Sharon,
Bayard,	Garland,	Mitchell,	Shields,
Beck,	Gordon,	Morgan,	Spencer,
Blaine,	Grover,	Oglesby,	Teller,
Booth,	Hereford,	Paddock,	Thurman,
Cameron of Pa.,	Jones of Nevada,	Patterson,	Voorhees,
Coke,	Kirkwood,	Plumb,	Wallace,
Dennis,	Lamar,	Ransom,	Windom.
Dorsey,	McDonald,	Sargent,	

NAYS—27.

Anthony,	Davis of Illinois,	Hoar,	McMillan,
Bruce,	Davis of West Va.,	Howe,	Matthews,
Burnside,	Dawes,	Ingalls,	Merrimon,
Butler,	Edmunds,	Jones of Florida,	Morrill,
Cameron of Wis.,	Ferry,	Kellogg,	Randolph,
Conkling,	Hamlin,	Kernan,	Withers.
Conover,	Hill,	McCreery,	

All of whom voting yea, I will state for the information of the New York Times and the Washington Post, voted to abrogate a treaty by an act of Congress.

But not only so. A doctrine akin to this has been recognized time and time again by Congress in the passage of revenue laws. In 1857 the United States entered into a treaty with Denmark in which there was a provision to the effect that "no higher or other duties shall be imposed on the importation into the United States of any article, the produce or manufacture of the dominion of the treaty-making power, than are or should be payable on like articles, being the produce or manufacture of any other foreign country."

Subsequently, in 1875, the United States entered into a treaty with the Hawaiian Islands in which certain products were admitted free of duty, and it was insisted upon the part of the exporters in Denmark that by virtue of the provision in the Hawaiian treaty similar products to those admitted under the Hawaiian treaty should come in free of duty, but the circuit court for the southern district of New York held as follows:

The stipulation in a treaty with a foreign power to the effect that no higher or other duties shall be imposed on the importation into the United States of any article, the produce or manufacture of the dominion of the treaty-making power, than are or shall be payable on the like articles the produce or manufacture of any other foreign country, does not prevent Congress from passing an act exempting from duty like products and manufactures imported from any particular foreign dominion it may see fit.

And although we have similar provisions to that contained in our treaty with Denmark, in our treaties with Prussia, Sweden and Norway, the Two Sicilies, Portugal, Nicaragua, Hayti, Honduras, and Italy, yet none of these provisions in these several treaties has ever stood in the way of Congress enacting such tariff laws as was deemed necessary and proper.

In fact, the national House of Representatives so long ago as on the 7th day of April, 1796, adopted a resolution declaring that when a treaty depended for the execution of any of its stipulations on an act of Congress, it was the right and duty of the House to deliberate on

the expediency or in expediency of carrying such treaty into effect. And though it is a fact that President Washington in his message of 30th of March, 1796, denied this right on the part of the House of Representatives, it has been exercised time and time again during all the administrations of the past.

It is true a doctrine contrary to that which has become firmly settled in this country as applicable to treaties between certain nations, and to which the United States is not a party, has sometime been asserted but not maintained by these foreign nations; as, for instance, the congress of Paris in 1856, in which Great Britain, France, Prussia, Sardinia, and Freiburg were represented by ministers plenipotentiary, declared it to be an essential principle of the law of nations that—

None of them can liberate itself from the engagements of a treaty nor modify the stipulations thereof unless with the consent of the contracting parties by means of an amicable understanding.

But this doctrine has never received the sanction of either the executive, administrative, or judicial authorities of this country; nor has the doctrine been practically acted upon, carried out, or enforced by any of the governments represented in that congress; but, on the contrary, a notable example of an entire repudiation of this doctrine by Great Britain is to be found in the passage by the British Parliament of the act of 1870 abrogating in part our extradition treaty with that Government of 1842. And it may as well be remembered by those who are so punctilious upon the subject of interference with treaty stipulations that Great Britain in the passage of that act did so without making any inquiries whatever of the Government of the United States, and without soliciting its consent, and without giving any notice whatever of its intention to modify the provisions of the extradition treaty by an act of Parliament.

During the discussion of the Chinese question in the Senate in May, 1876, this very question as to the power of Congress to abrogate a treaty came up and was alluded to as follows:

Mr. OGLESBY. I should like to ask the honorable Senator from Vermont, as I do not know myself, whether any conflict exists or not on the point concerning which I am about to inquire. Suppose under the treaty-making power a treaty should be made with China which should contain certain specific regulations upon this very question, and it should be duly ratified by the Senate, and a law of Congress under the power to regulate commerce with foreign nations should be passed upon the same subject, general but internal in its application, and yet in conflict with the terms of the treaty, I should be obliged to the Senator from Vermont to state if he knows whether there has been any determination by the Supreme Court as to how that conflict would be regarded under the Constitution of the United States. Would the law passed by Congress regulating commerce in conflict with a treaty upon that subject prevail or would the treaty prevail?

Mr. EDMUNDS. As I understand it, the Supreme Court of the United States has two or three times (but once is enough, it being a unanimous opinion) determined that under the Constitution, just as it reads, the laws passed by Congress and treaties are both of them equally the supreme law of the land, any law or regulation of a State to the contrary notwithstanding. I do not quote the words but that is the substance. Now, that being the state of the Constitution, the Supreme Court has decided unanimously more than once, and I think upon perfectly impregnable grounds, that, if a law is in conflict with a treaty that existed when the law was made, the treaty, to the extent that the law does conflict with it, is abrogated by the general sovereign power of the nation. Whether that abrogation would be an act of injustice or of war, or whatever it might be called, toward the foreign nation with whom we had the treaty, is a question with which, of course, the courts have nothing to do. On the other hand, if a law as a commercial regulation, to say nothing about the right of the House of Representatives to originate revenue bills and tariff bills—waiving all that—if a law about the introduction of persons should be passed, and afterward the President and the Senate should conclude a treaty with a foreign power which con-

flicted with the law, then in the same way the treaty would override the law and abrogate the law to that extent. In other words, the last act of the sovereign power exercised in either way under the Constitution, being a complete exercise of sovereign power, would prevail.

But, again, in 1879, when the act abrogating the Burlingame treaty was finally passed through both Houses of Congress, Senator Thurman, of Ohio, expressed his views upon this question as follows:

It has been said—

Referring to the prohibition of Chinese immigration—

that it can only be done by the negotiation of a new treaty. I do not know that that proposition has been distinctly advocated upon this floor; but if it does lurk in the mind of any Senator I beg him to listen to the very few observations I have to make upon it.

To me it seems perfectly clear that the proposition can not for a moment be sustained, and that it would be ruinous to this country, or to any country, to hold that a treaty can only be put an end to by the negotiation of another; for that would put you completely at the mercy of the party with whom you had negotiated the treaty. Take, for instance, this very case. If we can only put an end to this treaty by negotiating a new treaty with China then it is in the power of China, by refusing to negotiate a new treaty or such a one as we desire, to hold us to this treaty, however detrimental to our interests it may be.

Mr. HAMLIX. Will the Senator allow me to ask him if he knows of any one who holds that doctrine?

Mr. THURMAN. I said I did not know; but it has been said and it has been argued, and the Senator from Maine knows very well that, when he and I were members of the other House in the celebrated Oregon discussion, it was stoutly maintained then that the convention with Great Britain, known as the Oregon convention, could not be put an end to by an act of Congress.

Mr. President, I said that the very necessity of the case requires that this power should reside in Congress. It must reside somewhere, and it must reside in that department of the Government which can judge for itself, irrespective of what any foreign power may say. The very existence of the Government itself might depend upon the exercise of this power. It is very true that if we were, without cause, to put an end to a treaty and thereby prejudice the other party to it, we should, in morals and according to the law of nations, be responsible in damages for such abrogation; but still the power to do so exists in every party to a treaty. In the nature of things it must be so. Treaties are like partnerships. There is no such thing as an indissoluble partnership; there is no such thing as an indissoluble treaty. Either party may declare it abrogated, being responsible if it abrogates it without due cause; but the treaty itself is at an end. And that Congress is the right department of the Government to put an end to it follows, as a matter of course, if it be admitted that there is some other mode of putting an end to it than by the negotiation of a new treaty. If it does not belong solely to the treaty-making part of the Government to put an end to it by the negotiation of a new treaty, then, *ex necessitate*, it must belong to the legislative department of the Government, and this is perfectly consistent with the declaration of the Constitution in article 6:

"This Constitution, and the laws of the United States which shall be made in pursuance thereof, and all treaties made, or which shall be made, under the authority of the United States, shall be the supreme law of the land."

A treaty is a law according to the Constitution, and its modification or its abrogation belongs to that department of the Government which makes and un-makes laws.

Mr. President, in pursuance of this view we have again and again modified, or even abrogated, or put an end to treaties. The most notable case—one that excited this country very greatly at the time it happened—was the action of Congress in 1798 in regard to the treaties made with France, including that celebrated treaty of the Revolution with France, to which we owed so much in achieving our independence. In 1798, by act approved July 7, Congress declared as follows:

"Be it enacted by the Senate and House of Representatives in Congress assembled, That the United States are of right free and exonerated from the stipulations of the treaties and of the consular convention heretofore concluded between the United States and France, and that the same shall not henceforth be regarded as legally obligatory on the Government or citizens of the United States."

Senator Thurman, proceeding, further said:

There was a treaty abrogated expressly by act of Congress, and on the question of power it does not in the least militate against this exercise of power by Congress that the preamble to this act sets forth divers causes why the treaties ought

to be abrogated, and alleges breaches of the treaty on the part of France; because, whether there was cause or not cause to abrogate that treaty, if the Congress had no power to abrogate it, if the power to abrogate it resided with the treaty-making portion of the Government, then no matter what was the cause, Congress had no right to pass that law. But it was not so regarded then. Congress did pass that law; and we have again and again since, and notably in our treaties with the Indian tribes, modified or even put an end to them, according to our own opinion of what was right and proper; and that we have that power in the opinion of the Supreme Court of the United States has been conclusively shown by the Senator who last spoke on this bill.

Mr. Justice Field, in the case of the Chinese laborer from Hong Kong, decided by him in United States circuit court of the ninth circuit, September 24, 1883, in discussing this very question, said:

It will not be presumed, in the absence of clear language to that purport, that Congress intended to disregard the requirements of a treaty with a foreign government, or to abrogate any of its clauses. At the same time, an act of Congress must be construed according to its manifest intent, and, so far as the courts are concerned, must be enforced. A treaty is in nature a contract between two nations, and by writers on public law is generally so treated, and not as having of itself the force of a legislative act. The Constitution of the United States, however, places both treaties and laws made in pursuance thereof in the same category and declares them to be the supreme law of the land. It does not give to either a paramount authority over the other. So far as a treaty operates by its own force without legislation, it is to be regarded by the courts as equivalent to a legislative act, but nothing further. If the subject to which it relates be one upon which Congress can also act, that body may modify its provisions or supersede them entirely. The immigration of foreigners to the United States and the conditions upon which they shall be permitted to remain are appropriate subjects of legislation as well as of treaty stipulation. No treaty can deprive Congress of its power in that respect. As said by Mr. Justice Curtis in *Taylor vs. Morton*: Inasmuch as treaties must continue as part of our municipal law, be obeyed by the people, applied by the judiciary, and executed by the President while they continue unrepealed, and inasmuch as the power of repealing these municipal laws must reside somewhere, and nobody other than Congress possesses it, then legislative power is applicable to such laws whenever they relate to subjects which the Constitution has placed under that legislative power. (2 Curtis C. C. Reports, 459.)

IS THE TREATY PERNICIOUS TO THE STATE, PREJUDICIAL TO ITS BEST INTERESTS, AND SHOULD IT BE ABROGATED?

The power of Congress, therefore, to abrogate these treaties being beyond question the next proposition to which I desire to attract attention is this: Do the admitted facts, read and known by all men, either demand or justify its exercise in the manner proposed by this bill? I insist, without fear of successful contradiction, that they not only justify but imperatively demand it. And in this connection I concede that the abrogation of a treaty with a foreign power by Congressional enactment should never be attempted, much less consummated, except for the gravest, most satisfactory, and conclusive reasons. But if from its inception it has been, or has for any reason since become, either contrary to the fundamental law, prejudicial to the state, or in its operation or effect pernicious to the commonwealth, and in its tendencies violative of the public peace or subversive of public justice, then no higher duty could possibly devolve on the American Congress than that of striking it down and wiping it out, either on account of its illegality or because it was from its inception, or has become, a vicious enemy of the state. Indeed, writers on international law agree in the declaration that a treaty that is prejudicial or pernicious to the state is absolutely void, just as a treaty is that is in conflict with the fundamental law. Vattel, in his *Laws of Nations*, section 228, in discussing this subject, says:

Every treaty prejudicial to the state or contrary to her fundamental laws being in its own nature void, the oath that may have been added to such treaty is void likewise and falls to the ground together with the covenant which it was intended to confirm.

And continuing further he says:

A treaty pernicious to the state is null and not at all obligatory.

And further, page 259:

Though a simple injury or disadvantage in a treaty is not sufficient to render it invalid, the case is not the same with those inconveniences that lead to the ruin of the state.

While Grotius, the great author of international law, states the following rule:

The natural law, by which every nation is bound to maintain its own existence, is not abdicated by treaty.

In this connection I shall assume that it is conceded by over 95 per cent. of all intelligent, reasoning men of mature years in the United States who have given to this subject any consideration, whatever may be their opinion as to the abstract right of the proposition as to whether their coming should be absolutely excluded by law, that the presence of Chinese in this country is an evil colossal in character, insidious in its operations, pernicious in effect, provocative of dissension and strife, the corrupter of public and private morals, a blight upon American labor, an obstruction to the rightful demands of honest toil, a disturber of the public peace, a restraint on desirable European immigration, a common enemy of the toiling millions of our land, a gradually and rapidly expanding and fearful menace to the best interests of our Republic, and a poisonous cup to the lips of Christian civilization.

Whatever may be the sentiment on this subject east of the Rocky Mountains where the shadows of this great scourge have as yet comparatively so lightly fallen, there is among the people west of the Rocky Mountains but one sentiment, but one mind, but one judgment, on this great and all-absorbing question, if we may except an occasional mercenary journal whose venal proprietors attach more value to the patronage of the Chinese six companies than they do to the rights of the masses of the people or the best interests of the State, or an occasional corporation whose interest is to degrade labor, cheapen the price of honest toil, and obtain the services of the laboring man at the lowest possible price.

As bearing upon this question of unanimity of opinion on the Pacific coast in opposition to Chinese immigration, it may be well to remember that six years ago, through the action of the Legislature of the State of California, the question was submitted to a vote of the people of that State. The whole vote cast was 155,521—a full vote. Of these, 154,638 were cast in opposition to Chinese immigration, while only 883 votes were cast in favor of it. And it is an unquestionable fact that public opinion on this question in the infected districts—and by this is meant the whole Pacific coast, including, as I believe, also the State of Colorado and the Territories of New Mexico, Wyoming, Montana, and Dakota—has ever since been becoming more solidified, more robust, more aggressive, and is now more determined and emphatic than ever before.

To-day there is but one voice on the Pacific coast on this question, coming alike from the field and the workshop, the bench and the bar, the rostrum and the pulpit, while the press, irrespective of party, with but an occasional exception as stated, is indefatigable and able not only in its attacks on the dreadful invasion but also in insisting that the real remedy is that proposed by the bill I have presented. As evidence of my statement in this regard, I attract attention to the following editorials and extracts from some of the leading journals of San Francisco, that have fallen under my notice the past few days.

I find in the San Francisco Evening Post of the 15th instant the following report of a pulpit discourse recently delivered in that city by the celebrated Congregational divine, Rev. Dr. Barrows:

At the First Congregational church last evening Rev. C. D. Barrows, the pastor, delivered a strong anti-Chinese sermon, in which he favored adopting any legal measure for expelling the Mongolian from this country. He said the time had come when the pulpit could no longer be silent, but must show equal interest with the press in affairs of this character. Self-protection was always justifiable, and if so in individuals why not in communities. Invasion, he remarked, was not immigration. If one invites a stranger to share a meal, and he proposes not only to take his portion, but that of the family and turn them out of doors, should the host submit? There was no question that the Chinese were usurping our rights and the laws human and divine entitled us to protect ourselves. The speaker declared that justice must not be forgotten, and defied the philosopher or missionary to prove by the Bible that there was any justice in the present state of affairs. The Chinese should be removed in accordance with justice, and there should be no more such immigration. Religious people made a great mistake when they thought that the only thing to do with the Chinese here is to Christianize them. In conclusion he stated that there was a necessity to readjust the national policy, and that we must make our country one of reunited States, and not the home of vagabonds.

The Evening Post comments editorially in the same issue, as follows:

Two weeks ago Rev. John Gray preached in the same strain at the Episcopal Church of the Advent. Neither of the reverend gentlemen said anything novel upon the theme which engaged his eloquence—for indeed, no one can say anything new upon so well worn a subject—but the fact that two clergymen, belonging to denominations so respectable, numerous and influential, should seize the present occasion to speak out so boldly and intelligently upon the Chinese question is noteworthy and gratifying. There has been a great advance within the past ten years in the position of the Pacific coast pulpit on this subject. Time was when here, as elsewhere throughout the country, it was thought that the pro-Chinese view was necessarily the Christian view. The argument ran thus: As it is the duty of Christians to convert the heathen, everything that facilitates this work is to be encouraged; Chinese who are brought to this country come directly under Christian influences—therefore, Chinese immigration should be approved. Long experience has shown, however, that it is no easier to convert the Chinaman here than on his native soil, and it has also become painfully apparent that whatever benefit, spiritual or other, which the Chinese may derive from being in America, nobody else gains any permanent advantage. It has been seen that the presence of the Chinese means poverty, suffering, and moral and religious blight to many of our own race.

The church view of the Chinese question has, therefore, broadened so as to take in the souls of white as well as of Mongolians, and the result is that many clergymen are now among the most earnest advocates of exclusion. The religious press of the coast is almost as outspoken as the secular in its antagonism to coolism. Of late the Occident, the Presbyterian organ, has been doing good missionary work in enlightening its pious contemporaries of the East as to the evils, material and spiritual, which accompany the advent of the picturesque heathen from Asia into American communities. It is significant of the changed attitude of the church that the anti-Chinese convention held recently at San José selected a Baptist clergyman of that city as its agent and representative to travel through the State and organize anti-cool clubs.

How can our esteemed contemporaries of the East reconcile these facts with their theory that hostility to the Chinese is confined on the Pacific coast to the ignorant and the vicious? We should like to see the sermons of Dr. Barrows and Rev. Mr. Gray printed in pamphlet form and sent to every newspaper office in the Union—especially to every religious newspaper office.

The San Francisco Evening Post in its issue of the 12th instant, in referring to the introduction of the bill now under discussion, speaks editorially as follows:

THE MITCHELL BILL.

Senator MITCHELL, of Oregon, has introduced a Chinese bill of a much more thorough character than any that has yet been offered by a responsible statesman. It abrogates all existing treaties with China, so far as they hamper the United States in dealing with immigration; forbids the entry of any Chinese persons except government officials and their servants; provides punishment for any master of a vessel who brings Chinese in violation of the law; prohib-

its the naturalization of Chinese, and makes due provision for the execution of the act. No chance is left for the courts to nullify the law. The prohibition of immigration, with the one exception named, is absolute. In express terms, it applies to all persons of Chinese race, whether subjects of the Chinese Empire or not. The amiable witness, who appears with mechanical regularity to swear that the petitioner once lived on "Dupon's stile," would, under this measure, find his occupation gone, for previous residence is not recognized by the bill.

As to the justice of this proposed act there can not be two opinions on the Pacific coast. It is precisely what the Post has been recommending for months, and what will have to come, sooner or later.

The Daily Evening Bulletin of the same issue said, among other things in its leading editorial, the following:

SENATOR MITCHELL'S PROPOSITION.

Senator MITCHELL, of Oregon, has introduced a bill in the Senate to abrogate all treaties which give the Chinese the right to enter this country and then effectually exclude them. There is not much doubt but that is a step which will have to be taken sooner or later. The movement against the coolies which is now so general throughout the Pacific coast goes by different names. As a matter of fact it is merely a popular effort more determined than anything that has yet been attempted to shake off Mongolianism. Its object is nothing more than the full and complete re-Americanization of the Pacific States and Territories, which are about the only areas not well filled up in the United States at this time. It might as well be understood by all those who gave any thought to the subject, East or West, that this movement is not going to come to a halt, or that there is not going to be a reaction of any consequence. The conflict is as irrepressible as that between free and slave labor formerly in the South. It will proceed until the only logical solution possible under the circumstances is reached—that is to say, the absolute, complete, and eternal exclusion of the servile and disturbing Chinese element. If there is not legislation wise and broad to facilitate and guide the movement, it will, before long, assume another more ultra and less manageable form.

To Senator MITCHELL's proposition, therefore, Congress will in time have to come. No doubt the wisest thing to do is to accept and enforce it now.

The San Francisco Morning Call of the 13th instant said editorially in reference to this question and this particular measure:

MITCHELL'S ANTI-CHINESE BILL.

Senator MITCHELL has begun where other anti-Chinese legislators will end. The present Congress may not be prepared for the bill Mr. MITCHELL has presented, but the next Congress will be. The people of the United States appear to have made up their minds that Chinese immigration must be stopped, the only question now being as to the necessity of an act of legislation which abrogates existing treaties. The Mitchell bill will be opposed in Congress on the ground that it is a discourtesy to the State Department to give notice of the abrogation of a treaty through Congressional action. It will be held by some that the State Department should exhaust diplomatic resources in the effort to obtain such a treaty as we want before Congress shall declare a treaty abrogated. It seems to us, however, that time enough has been wasted in waiting for the State Department to act. There is much reason to doubt if that Department is intensely interested in keeping Chinese out of the country. It is certain that the Treasury Department has construed the present law to admit Chinese in transit without assuming the duty of ascertaining if the Chinese so admitted left the country as they reported their intention to do.

In various ways the Departments have done much to render the present law ineffective. There is some excuse, in consequence, if Congress, representing the people, takes the task of getting rid of Chinese into its own hands. Nine years ago, in the early part of Mr. Hayes's administration, an exclusion law was passed which did not pretend to conform to existing treaties. The President vetoed it on the ground that it would be discourteous to China to announce through Congress the abrogation of a treaty. Under the stimulant of this Congressional act the State Department set its intellectual forces at work, and in the course of time the treaty of 1880 was agreed upon. By that treaty we agreed to allow all Chinese then in the country to go and come at pleasure. The go-and-come clause in the treaty has proved fatal to its usefulness. The "go" was all right, but the "come" was a mistake. Senator MITCHELL's bill eliminates the word "come" wherever it occurs. The facilities for going are not in the least impaired, but we do not want any one Chinaman to go but once. The Call has frequently expressed the belief that the present act might be made effective by literal construction and rigid enforcement.

But the courts say that literal construction violates the spirit of the treaty.

Rather than violate the spirit of the treaty the courts have so construed the act that it serves but little purpose. It increases the cost of landing Chinese in the country, but it does not apparently materially diminish the number landed. Now, if we must disregard the treaty, let us do so in an open and manly way. Let us say to the Chinese Government that on and after a certain date no Chinese laborers will be allowed to land in the United States. The stupendous folly of permitting a Chinaman to return and repeat his raid should be openly renounced. Provision can be made for the migration of recognized merchants whose business requires an occasional trip to China. But when a Chinese laborer goes he should be denied the privilege to return. The Call favors all legislation which will strengthen the present law. If the Morrow bill can be passed and the Mitchell bill can not, let us have the Morrow bill. If it does not work better than the present law, Congress will be ready for the Mitchell bill before its fiftieth session expires.

The Call, in another recent editorial, said:

MAKE IT TIGHT.

A Washington dispatch says it is thought that all the anti-Chinese legislation the Pacific coast desires will be conceded by Congress. The anti-Chinese legislation which the Pacific coast especially desires is an enactment which will keep Chinese out of the country. Our experience convinces us that this can only be done by the enactment of a law forbidding Chinese laborers to return at all. When they go let them stay. So long as we undertake to provide for the return of the Chinese laborers, so long will fresh Chinese be sent in the place of those departed. We do not ignore the provision in the last treaty which allows Chinese then in the country to go and come of their own accord. It is, however, within the constitutional power of Congress to notify the Chinese Government that this provision of the treaty can not be observed without abandonment of the purpose for which the treaty was made. We have tried during four years a restriction law which carefully observed the provisions of the treaty. Between Department decisions and judicial decisions, all intended to carry out the spirit as well as the letter of the treaty, this law has been made ineffective. We now want a law that can not be construed away. The bill Representative MORROW has introduced limits the time within which a Chinese laborer may remain in China without forfeiting the right to return to two years. This is a disregard of the treaty, which makes no limit at all. An air-tight and water-proof Chinese exclusion law is what the Pacific coast now desires.

The Chronicle, in discussing the pending bill editorially, said:

He [MITCHELL] has gone further than the most strenuous opponents of the Chinese have thus far gone, but it is just as well for Congress to face it now. MITCHELL will doubtless furnish reasons to justify the legislation he proposes, and show that the trade with China is not worth considering.

But the San Francisco Daily Evening Bulletin, returning to the subject in its issue of the 15th, publishes the following editorial under the head of

THE RISING TIDE OF PUBLIC OPINION.

If Senator MITCHELL's bill, with some modifications, or any other bill having like purpose in view, can be passed, the Chinese question will be solved for all time. That bill rises fully to the gravity of the case. If the question of our relations with China were broadly and ably presented, there is not much doubt that his proposition will become the law of the land. Mr. MORROW's bill was introduced early in the session. It went as far as it was thought it was possible to go at that time. But since then the Chinese question has undergone an entire change on the Pacific coast. One whole stage in the natural process of its solution has been jumped over. There was no one who favored MORROW's bill who did not know that at some future time some other and more ultra measure would have to be adopted. By the act of the people in every city and town of importance on the whole coast the question has been advanced one step on the Calendar, so to speak.

Revolutions never go backward. A social, moral, industrial, hygienic, financial, and ethnological revolution is now in progress in California and the other States and Territories of the Pacific. The general and, in many respects, lawful uprising of our people, has stripped the question of the falsehoods by which it was surrounded. It is not the revolt of one class against another, however justifiable, but of a unanimous people determined to prevent the further defilement of this fair land by a heathen horde. Is it Americanism asserting itself against the debased and servile Mongollism of Asia. For the time being the Pacific coast is fighting on the forefront of civilization. The movement is one which will occupy a greater space in history than the small souls who are now

seeking to dwarf or divert it for gain imagine possible. It will rank second in the great moral and philanthropic movements of the epoch. The overthrow of black slavery was the first. The extinction of the more subtle Coolyism of the present day is the second.

Senator MITCHELL's bill is necessarily more in accord with the rising tide of popular determination to extirpate the Chinese evil once for all than any previous measure. There ought, in the present condition of things, to be no trouble about accepting it. There is no reciprocity at all in our dealings with China. We have received no reciprocal advantages. The case can be summed up in a few words: We enjoy no more rights in China than any other civilized nation; but our country alone has been opened up for the traffic of the man-dealers of Canton. That traffic is openly carried on with Cuba, Brazil, and Asia and is sanctioned by treaty. Here it is cloaked and disguised because our laws forbid forced labor. Some people do not believe that the Chinese are held to service and labor in the United States because they do not see them driven about in gangs.

The chains which bind these slaves are invisible. They were forged out of their religion and their civil polity. The relatives of the Chinese peon are mortgaged at his home for the faithful performance of his contract. If he fails they are sold into slavery. He goes about apparently as a freeman, but his acts show the collar on his neck. Expensive lawyers are hired to represent Coolies in the efforts to evade the restriction law, but in nothing else. Coolies move in obedience to orders issued by a central authority. They can not leave the country without the permission of their owners. If they attempt to do so they are removed from the steamer under trumped-up charges of felony. By cutting the Gordian knot as proposed by Senator MITCHELL we bring this slave incursion to an end. There is no reason to believe that such a summary method of proceeding will result in the commercial loss of any kind. Even if it did, every consideration of patriotism, morals, philanthropy, and civilization would require that the sacrifices should be made. But China has too good a thing in the trade with the United States to relinquish it. Besides, we are masters of the situation. By discriminating duties on tea and silk we can build up Japan at the expense of China.

Nor is there any necessity for diplomatic delay. No nation is bound to continue a treaty that is working it a constant and manifest injury. Great Britain did not ask permission when it modified by act of Parliament the extradition treaty which it had with us. It was enough for it that, in its opinion, that treaty was doing violence to some of the principles upon which its government was founded. No permanent, satisfactory arrangement can be made whereby certain classes of a people of whom we know but little, and of whose language we are all ignorant, are to be admitted and certain others excluded. The exigencies of the Burlingame Treaty, when the object was to adhere to the letter of that one-sided document, required that some such arrangement should be set up, but for the reasons stated it can never be made to work. There will always be fraud and imposition in the administration of any law of that kind. It is by far preferable that an end should be made of the whole business right off. The Chinese can not be admitted to this country. There are millions of them standing ready to overwhelm us if the gates are not finally and firmly shut.

But the sentiment expressed in these editorials and on the bill under discussion is not confined by any means to the Pacific coast, and as a sample I attract attention to the following editorial found in the Philadelphia Press in its issue of the 11th instant:

POTTERING WITH A GRAVE QUESTION.

The anti-Chinese outbreak at Seattle, Wash., is the first exhibition only of a hostility which has long been growing. During a year past there has been a manifest increase in the aversion to this class of immigrants on the Pacific Slope, and the determination to be rid of them is now much stronger than ever. A trial of nearly four years of the restriction act has shown that it is little better than a rope of sand as a bulwark against the Mongolians. The frauds that can be practiced under it are numerous, and the wily Chinese were not slow to find the loopholes and to take advantage of them. The knowledge of these facts has aroused the people of the Pacific Slope as they were never aroused before on the subject. Numerous meetings have been held to interchange opinions on the question, and two State conventions have been called to insure united action in dealing with the evil. One convention will assemble in Portland, Oreg., next Saturday, while the other will meet in San Francisco March 10.

These events ought to impress upon Congress the necessity for taking this matter into serious consideration at once. The legislation of the past has been mere pottering and was enacted evidently in the hope that the question would settle itself in time. This, however, it has not done, and to-day the situation is more grave than ever. The great shame of the whole business is that it has

been viewed more in its political aspects than in any other light. As the great majority of the members of Congress reside on this side of the Rocky Mountains and have no personal knowledge of the subject, they have taken that view of it which was likely to benefit their party most. Meanwhile the evil has gone on increasing. Instead of diminishing under the restriction act, the number of Chinese is believed to have steadily increased. According to the census of 1890 there were 73,548 Mongolian immigrants in California, 9,472 in Oregon, 3,166 in Washington Territory, and 104,000 in the whole country. California now estimates its Chinese population at 75,000, and the other States and the Territories in that vicinity admit no decrease. The frauds practiced on the custom-house officials and the ease in crossing the British Columbia border will account for this increase.

It is evident that some other policy must be tried. It is unjust to one of the fairest portions of the country for the rest of the nation to sit by supinely and see its prosperity retarded, its labor demoralized, and its people contaminated and refuse relief.

It will no longer do, therefore, to urge here or elsewhere in all this broad land that it is the irresponsible hoodlum element of the West only that is inveighing against Chinese immigration and crying out against their infectious, demoralizing, and pernicious presence.

This cry, always unfounded in fact, has in the face of events past and now transpiring become obsolete. The voice of honest labor, the intelligent demand of vital industries, the piteous wail of indigent toil—struggling for life in the unequal and unfair contest of competitive trial with the servile labor of Asia, transplanted, unfortunately, as it has been in American soil with all its tragic train of degradation, its ruinous tendencies, its debasing practices, its revolting customs and nameless crimes, are practically a unit on this great question in dignifying the movement on the Pacific coast in opposition to the Chinese as one in the interest of the general welfare, the conservation of public peace, the preservation of domestic tranquillity, the unfettering of public and private justice, and the vindication of the rights of American labor on American soil.

In view of the fact that the discussions of this question in Congress during the past fifteen or twenty years, and of the investigations that have been made under the direction of the two Houses of Congress, and the reports that have from time to time been submitted, with volume after volume of accompanying testimony, whereby have been spread upon the CONGRESSIONAL RECORD and before Congressional eyes evidence without limit and in its character overwhelming and conclusive, showing in all its horrid phases and in its real, abhorrent character the evil nature, the contaminating tendencies, and horrible results of Mongolian life and habits on American soil, it would seem superfluous to waste the time of the Senate in a repetition of the disgusting facts or in rehearsing the many arguments that have been made bearing upon this great question.

It is not a new question; the public mind is not in ignorance in reference to it; Congress is not unadvised; the executive and administrative departments of the Government can not be blind in view of the past and present disclosures, either as to the real state of the case or the gravity of the situation. And if the evidence and arguments heretofore submitted to Congress are in any respect wanting in verity or deficient in amplification or force, and surely they are not, they are to-day being strongly and emphatically supplemented, supported, and sustained by the scenes of riot and anarchy and dissension and bloodshed that have occurred during the past few months in Wyoming and California and Washington Territory and other sections of the Pacific coast, and all of which, however indefensible or unjustifiable they may be, and however untrue or unjust it would be to, in any manner, charge the respon-

sibility upon the Knights of Labor or upon any other class of intelligent and respected workingmen, it is true that they may be traced directly to the fact that there is imbedded within the population of these districts an abnormal element, a foreign body, a non-assimilating mass, a hideous putrefaction, the absolute and continual tendency of which is to provoke dissension and strife and anarchy and bloodshed.

The presence of nearly or quite two hundred thousand Mongolians, coming from among the worst classes of the lowest order of Asiatic life, and planted amidst and intermingled with a home population of less than one and a half millions on the Pacific coast, is an indigestible substance in the stomach of the body-politic of these communities; it is a nauseating emetic, which the people of that coast have been compelled to swallow, dipped from the stagnant and sickening cesspools of Pagan filth, and until it is ejected and thrown out the life and character, and destiny of that people will rest under the shadow of an affliction infinitely worse than that suffered by the Egyptians from the divers curses to which they were subjected.

In reference to the recent disturbances in Washington Territory and in other portions of the West, while we may and do reprobate violence under whatever pretense evoked or however great the provocation, except in support of law and order, it will not do, nor will the facts sustain the assertion, to say that it is the hoodlum or tramp or irresponsible element that is engaged in peaceable and orderly manifestations of opposition to the Chinese on the Pacific coast. As honorable and intelligent and respectable and worthy a class of workingmen as ever honored themselves and their families in this country, or their race, by honest effort and honest toil, suffering as they are to-day in their individual persons and in their families from the deprivation of the means of subsistence from the cheap and degraded labor of these rice-eating swarms of Asiatic serfs who have crowded them unceremoniously from the pick, the shovel, the hod, the plane, and the bench; from the factory and the hotel, from the field and the railroad, from the canal and the mine, from the garden and the shop, from the fisheries and the ways of travel, from the streets and the restaurants, from the manufactories and other places and vocations whereby men by their daily toil provide for self and wife and children and home, and goaded to a wild and, I may say, not inexcusable desperation, rise up in their majesty as intelligent, independent, suffering, resolute men, and protest by vigorous word and determined action against the presence in their midst of an element that is to them destructive of the means of subsistence and life and an insurmountable obstruction against them in every avenue of honest employment and fair recompense.

Is it to be wondered at that under these circumstances there will at times, through the indiscretions of the less discreet and peacefully inclined, occur occasional conflicts requiring the interposition of the strong arm of the law? The greater wonder is that the patience of communities composed of intelligent and worthy native-born and naturalized American citizens, whose homes have been established on these Pacific shores, whose families are there, and whose dependence is exclusively upon the fruits of their daily toil, and whose means of livelihood are filched from them day by day and hour by hour by a homeless band of male pagans, to whom home and family and fireside and children and domesticity are entire strangers, does not give way to desperation and to high-handed and united effort to immolate and destroy these destroyers of their peace and happiness. That this is not done under

circumstances of such intense aggravation and of such aggravated provocation is to the workingmen and working-women of the Pacific coast a crown of unspeakable glory, and it rightfully commends them and their interests to the favorable consideration and real sympathy not alone of Congress and the Executive but of the people of the entire nation.

As the public mind in this country has become so fully informed and thoroughly educated upon the general question as to the unadvisability of this character of immigration, and the public judgment is, as I believe, so firmly fixed, I have made no particular effort in what I have said to rehash the testimony bearing upon this question. I will, however, depart so far as to submit a quotation from Bayard Taylor, with whose writings all are familiar, and whose long residence in China enabled him to speak with accuracy upon the subject. In his work on India, China, and Japan, published in 1855, he says:

It is my deliberate opinion that the Chinese are, morally, the most debased people on the face of the earth. Forms of vice, which in other countries are barely named, are in China so common that they excite no comment among the natives. They constitute the surface-level, and below them are depths of depravity so shocking and horrible that their character can not even be hinted. There are some dark shadows in human nature which we naturally shrink from penetrating, and I made no attempt to collect information of this kind; but there was enough in the things which I could not avoid seeing and hearing—which are brought almost daily to the notice of every foreign resident—to inspire me with a powerful aversion to the Chinese race. Their touch is pollution; and, harsh as the opinion may seem, justice to our race demands that they should not be allowed to settle on our soil. Science may have lost something, but mankind has gained, by the exclusive policy which has governed China during the past centuries.

But as in my judgment there are no two opinions upon this question in this country, it is but a waste of time and a useless performance to adduce further testimony upon this point.

THE BURLINGAME TREATY NOT ONLY IN ALL RESPECTS VALUELESS TO THE UNITED STATES COMMERCIALLY, BUT A STANDING CURSE.

But it has been said that we can not afford to break faith with China, we can not afford to surrender the great privileges that have accrued and are accruing to the United States by reason of the Burlingame treaty. In answer to this I unhesitatingly say that never in the history of national compacts, never before in the execution of treaties between governments was any nation so shamefully overreached, fooled, bamboozled, outwitted, and swindled as was the United States in the adoption of the Burlingame treaty. The truth is, in that bargain the United States absolutely got nothing worthy of the mention that it did not possess before, while many of its then existing rights and privileges were materially restricted and in consideration of which it made a grant, an unqualified concession to an idolatrous nation, to an Asiatic empire, the result of which, unless restrained, will ere many years cast a blight upon our nationality, a paralysis upon American labor, a blot upon our civilization, a mildew upon our progress, and become a serious stumbling block in the way of the advancement and prosperity of our Republic.

What rights, or privileges, or concessions, or powers, or advantages were given or granted to the United States by virtue of the provisions of the Burlingame treaty that we did not possess by virtue of our treaty with China of June, 1858? Let us inquire. In the first article of the Burlingame treaty China asserts that in making concessions to the citizens or subjects of foreign powers of the privileges of residing on certain tracts of land, or resorting to certain waters of that Empire for purposes of trade, the Emperor of China had not by prior treaty or

by any means relinquished his right of eminent domain or dominion over the said land or waters; and it is stipulated that no such concession or grant shall be construed to give to any power or party which may be at war with or hostile to the United States the right to attack the citizens of the United States, or their property, within the said land or waters; and the United States is by this article prohibited from attacking the citizens or subjects of any power or party, or their property, with which they may be at war on any such tract of land or waters of the said empire; and the article then proceeds to absolutely and materially restrict the rights which the United States then enjoyed by stipulating that grants of land theretofore made to the United States or any of its citizens in China for the purpose of trade or commerce should in no event be construed to divest the Chinese authorities of their rights of jurisdiction over persons and property within said tracts of land, except so far as that right may have been expressly relinquished by treaty. The first article of the Burlingame treaty, therefore, so far from granting any new rights or privileges, is but a restriction on the rights and privileges of the United States and their citizens in China which they possessed before.

The same may be said of the second article, as it stipulates that any privilege or immunity in respect to trade or navigation with the Chinese dominions which may not have been stipulated for by treaty shall be subject to the discretion of the Chinese Government, and may be regulated by it accordingly.

The third article is also a concession to the Chinese Government, for which we receive nothing. It stipulates that the Empire of China shall have the right to appoint consuls at the ports of the United States, who shall enjoy the same privileges and immunities as those which are enjoyed by public law and treaty in the United States by the consuls of Great Britain and Russia, or either of them.

Article IV concedes naught that we did not possess under the treaty of 1858, save and except it is stipulated that the sepulture of our dead shall be held in respect and free from disturbance or profanation, for which we extend the same courtesies.

The stipulation in reference to the exemption of citizens of the United States in China from disability or persecution on account of their religious faith, and the enjoyment of liberty of conscience, are but little, if indeed anything, more than an elaboration of concessions then enjoyed by the United States under the treaty of 1858, while all these rights, privileges, and protections are thrown around Chinese subjects in the United States.

Article 5 of course concedes nothing to the United States, while the United States by its provisions, in an hour of thoughtlessness on the part of the great premier, Mr. Seward, and of the Executive and the Senate, and I might say of the entire people of the whole nation, while boasting of the protection they pretend to give to American labor and American interests, threw open wide the doors of the nation and bid welcome to our midst at their pleasure the countless millions of yellow idolaters of the Celestial Empire.

Article 6 is an elaboration and guarantee of the rights and privileges accorded to Chinese subjects in the United States by article 5 of the treaty.

But what do we get by article 7? The enormously valuable concession that citizens of the United States shall enjoy all the privileges of the public educational institutions under the control of the Government of China enjoyed by citizens or subjects of the most favored na-

tion, and the right upon their part to freely establish and maintain schools within the Empire of China at those places where foreigners are by treaty permitted to reside; while all these privileges are extended to Chinese subjects in the United States. Wondrous concession, that the civilization of free enlightened America, the outgrowth of popular and scientific education and of Christianity, should be graciously admitted to the sacred educational temples of the descendants of Confucius in a land where popular education is unknown, where the sciences are strangers, and Christianity is unheard of!

And now having traveled through each and every article of the treaty, except the last, without being able to discover a single solitary new grant or concession to the United States or its citizens that is or ever has been or ever can be worth so much as a farthing, we come to consider the last article in the treaty to find a second Chinese wall more formidable than that which held the Tartars at bay for over fourteen centuries, erected with our consent, builded in part with our own hands around the Chinese Empire and all its vast territory, so broad and firm and high as to forever exclude from whatever fields of enterprise that country may possess all American enterprise, capital, and labor.

The United States—

Says this article—

do hereby disclaim and disavow any intention or right to intervene in the domestic administration of China in regard to the construction of railroads, telegraphs, or other material or internal improvements.

And again:

On the other hand, his majesty, the Emperor of China, reserves to himself the right to decide the time and manner and circumstance to introduce such improvements within his dominions; and it is further stipulated that whenever his Imperial Majesty shall determine to construct or cause to be constructed works of the character mentioned within the empire, the United States shall, on demand of the Emperor of China, designate and authorize suitable engineers to superintend and carry on the work for China, and will recommend to other nations that they respond to the request of China in that regard in like manner.

The Daily Evening Bulletin of San Francisco, in discussing this question and suggesting the advisability of abrogating the Burlingame treaty, in a recent issue of that paper made the following statement:

When the argument comes up on the latter point it will not be difficult to demonstrate that in that compact we gave everything and got nothing whatever in return. It would be impossible to find an instance in which a nation was more grossly overreached than we were on that occasion. The instrument will be searched in vain for any right or privilege conceded to Americans which all other foreigners do not enjoy. The history of diplomacy does not reveal another instance of a bargain so entirely one-sided.

It is therefore evident that were the Burlingame treaty and the supplementary treaty of 1880 wiped out of existence to-morrow *in toto* our interests in China would not be damaged to any material extent whatever, while on the other hand results incalculable in their value would inure to the benefit of the United States. The objection that our commerce with China would suffer and great commercial interests be stricken down by the abrogation of this treaty is not well-founded. It is based upon an entire misconception of the facts; it is founded in an erroneous impression of the benefits alleged to have been conferred upon this country by the Burlingame treaty; it is made in ignorance of the real state of facts in reference to our trade with China. China has too much at stake, too many interests to subserve to close her ports against American commerce. Her exports to the United States are nearly 300 per cent. more in value per annum than the value of our exports to China.

I hold in my hand a statistical statement showing the kind, qualities, and values of the imports into the United States from, and the exports of the United States to, China during the year ending June 30, 1885, which I ask the permission of the Senate to incorporate in my remarks without stopping to read it.

Statement showing the quantities and values of imports into the United States from and the exports from the United States to China during the year ending June 30, 1885.

IMPORTS.

Articles.	Quantities.	Values.
FREE OF DUTY.		
Chemicals, drugs, and dyes, not elsewhere specified		\$124,524
Coffee.....pounds.....	254,051	26,872
Farinaceous substances, and preparations of, not elsewhere specified.....		65,698
Hair, not elsewhere specified.....		65,366
Hides and skins, other than fur-skins		338,544
Silk, unmanufactured:		
Cocoons.....pounds.....	2,098	1,256
Raw, or as reeled from the cocoon.....pounds.....	1,030,580	3,199,851
Waste.....pounds.....	13,420	10,711
Spices, unground.....		42,860
Tea.....pounds.....	35,895,835	3,038,896
Wood, unmanufactured, not elsewhere specified.....		33,429
All other free articles		52,761
Total free of duty		12,060,768
SUBJECT TO DUTY.		
Chemicals, drugs, dyes, and medicines, not elsewhere specified:		
Opium, crude.....pounds.....	5,501	21,311
prepared for smoking.....pounds.....	21,402	182,186
All other.....		27,740
Cotton, manufactures of		128,753
Earthen, stone, and china ware		33,662
Fish, not elsewhere specified		57,075
Furs, dressed on the skin, and manufactures of fur.....		221,956
Hats, bonnets, and hoods, and materials for.....		979,869
Oils, vegetable, fixed, or expressed, other than olive.....gallons.....	399,428	168,890
Provisions, meat products.....		42,742
Rice, not elsewhere specified.....pounds.....	38,363,652	728,974
Rice, granulated, or rice meal.....pounds.....	358,039	9,141
Silk, manufactures of		618,696
Spirits, distilled, and spirituous compounds, proof-gallons.....	81,170	27,698
Sugar, brown (not above No. 13).....pounds.....	1,888,406	44,341
Tobacco, manufactures of		42,763
Vegetables:		
Pickles and sauces.....		37,908
All other.....		45,231
Wool, and manufactures of		28,920
Wool, and manufactures of:		
Unmanufactured.....pounds.....	1,141,604	102,787
Manufactures of		23,800
All other dutiable articles		641,844
Total subject to duty.....		4,241,401
Total imports of merchandise.....		16,292,169
Total imports of gold and silver coin and bullion.....		1,529
Total imports.....		16,293,698

Statement showing quantities and values, &c.—Continued.

EXPORTS.

Articles.	Quantities.	Values.
Books, maps, engravings, and other printed matter.....		26, 445
Breadstuffs:		
Wheat, flour.....barrels...	7, 060	35, 734
All other.....		4, 784
Clocks and parts of.....		51, 819
Cotton, manufactures of:		
Colored.....yards...	74, 446	\$4, 644
Uncolored.....do...	51, 216, 182	3, 400, 839
All other.....		9, 531
Gunpowder and other explosives.....		419, 361
Iron and steel, manufactures of:		
Firearms.....		768, 076
All other.....		33, 329
Oils: Mineral, refined.....gallons...	15, 421, 400	1, 455, 234
Provisions, comprising meat and dairy products.....		35, 977
Wood, and manufactures of.....		25, 667
All other articles.....		120, 238
Total exports of domestic merchandise.....		6, 396, 178
Total exports of foreign merchandise.....		332
Total exports.....		6, 396, 500

From this statement, it will be seen that the whole amount of merchandise imported from China to the United States during this period amounted in value to the sum of \$16,292,169, of which amount only about one-fourth, or \$4,241,401, was subject to duty, the balance being on the free-list; while the sum total of our exports to China on domestic commodities during the same time was \$6,396,178, our total exports of foreign merchandise but \$322, making our total exports \$6,396,500.

The port of San Francisco alone exported merchandise to all foreign countries during the year ending June 30, 1885, more than six times the amount in value than did all the ports of the United States, San Francisco included, export to China during the same period, her exports of merchandise for that year being \$38,115,624, while the port of Portland, Oreg., the next nearest port of consequence to China, if we may except Astoria, Oreg., exported in all that year merchandise within \$2,000,000 of the amount sent to China by all the ports of the United States, San Francisco and Portland included.

Nor has our export trade with China increased, but on the contrary largely decreased, during the past few years under the operation of the Burlingame treaty. Our total exports to China for the year ending June 30, 1885, were less by nearly \$500,000 than they were seven years ago. In that year, ending June 30, 1878, they were \$6,867,255, and our exports to China during the year ending June 30, 1885, were less by \$1,965,036 than they were in 1881, and, small as it is, less than double that when the Burlingame treaty was ratified. But, not only so, it requires a drain of our gold and silver of nearly \$10,000,000 annually to square our account with China, to say nothing of the immense drain of many millions annually sent out of the country through the operation of the Chinese.

But another consideration of immense importance must not be lost sight of in the consideration of this question. Prior to the existence of the Burlingame treaty Americans on the Pacific coast and elsewhere

within the limits of the United States carried on whatever trade we had with China and received the benefit of it. How is it to-day? Over 95 per cent. of the whole trade is monopolized and carried on by Chinese. The chimera, therefore, in reference to our great commerce with China and its alleged immense importance to this country cannot delude much longer, and when put in the balance against the great evils that are resulting to this country and our people from the presence of the Chinese, it should not be considered for one moment, even though the effect of the abrogation of the treaty might be to deprive us wholly of this trade, which, as I have endeavored to show, it most certainly will not; for, even conceding the importance of that trade and the desirability of retaining it, China will never close her ports against it, treaty or no treaty. The advantages are too greatly in her favor; the profits are all on her side of the ledger. The benefits inuring from it are in favor of China and not of the United States.

With Great Britain her account stands quite differently. England is not compelled to go down in her exchequer every year to the tune of many millions as have we in order to settle a balance of trade with China. Her opium from India alone very nearly pays for the Chinese products purchased by her.

It was proclaimed with a flourish of trumpets when the Burlingame treaty was consummated that a new market for our surplus wheat was to be opened up to the producers of this country; that the rice-eating millions of China would at once become a bread-eating people. But what is the result? Eighteen years have passed away and our annual total exports of breadstuffs to China, including wheat and flour, is of the value of less than \$40,000, the exact amount for the year ending June 30, 1885, being \$35,734—a mere bagatelle. And so with our provisions, comprising meats and dairy products; \$35,977 in value is the sum of all they purchased from us in the last year.

In fact, if we may except the two products of uncolored cotton manufactures, the value of our exports of which to China during the past year was \$3,400,339, or considerably over one-half of all our exports to that country, and refined petroleum, amounting to \$1,455,234, our export trade with China amounts to absolutely nothing; while from her free lists she, through her importations, is permitted to enter into competition with our producers of hides and skins, chemicals, drugs, and dyes, unmanufactured rare woods, hair, and other of our productions.

But again, recurring to the immense drain of specie from our country involved in this trade, I submit the following statement from the Bureau of Statistics, Treasury Department, showing the value of the foreign trade with China and Hong-Kong and our annual total exports of gold and silver to China during the past fifteen years. [See table on next page.]

From this it will be seen we have in that time sent to China in gold and silver to balance our account \$131,134,815. In the four years and seven months ending July 31, 1879, we exported from San Francisco alone, to China, specie to the amount of \$49,848,918. This immense sum of over \$131,000,000 in gold and silver is in small part the tax that has been levied on the white labor of the Pacific coast and handed over to the Mongols of Asia. But to this add not less than from \$75,000 to \$100,000 per day that is daily being absorbed by the laboring Chinese of the Pacific coast, and only a very small fraction of which finds its way back into American life and industries, and the balance of which, amounting to untold millions, is sent out of the country, and

Value of the foreign trade of the United States with China and Hong-Kong

Year ending June 30—	Exports.		Total ex- ports.	Imports.	Total im- ports and exports.
	Domestic.	Foreign.			
MERCHANDISE.					
1870.....	\$3,051,616	\$64,765	\$3,116,381	\$14,565,527	\$17,681,908
1871.....	2,041,836	28,996	2,070,832	20,064,365	22,135,197
1872.....	2,915,465	21,370	2,936,835	26,752,835	29,689,670
1873.....	2,547,085	8,885	2,555,970	27,191,759	29,747,729
1874.....	2,078,565	55,096	2,133,661	18,568,940	20,702,601
1875.....	3,551,038	15,710	3,566,748	14,676,416	18,243,164
1876.....	4,715,115	14,777	4,729,892	12,847,633	17,577,525
1877.....	4,908,075	34,631	4,937,706	12,301,684	17,239,390
1878.....	6,850,981	16,324	6,867,255	18,120,483	24,987,738
1879.....	5,980,954	11,245	5,942,199	18,084,694	24,026,893
1880.....	3,974,447	4,328	3,978,775	24,020,707	27,999,482
1881.....	8,361,949	2,585	8,364,534	24,717,657	33,082,091
1882.....	9,106,902	16,978	9,123,880	22,638,433	31,762,313
1883.....	7,845,753	12,328	7,858,081	22,060,325	29,918,306
1884.....	7,705,022	5,405	7,710,427	17,121,373	24,831,800
1885.....	6,396,178	322	6,396,500	16,292,169	22,688,669
GOLD AND SILVER.					
1870.....	3,369,547	2,554,138	5,923,685	62,960	5,986,645
1871.....	1,878,380	1,693,267	3,571,647	1,950	3,573,597
1872.....	4,799,470	1,199,865	5,999,335	700	6,000,035
1873.....	4,789,608	2,364,941	7,154,549	181	7,154,730
1874.....	6,621,400	2,759,641	9,381,041	39,772	9,420,813
1875.....	5,210,966	1,392,403	6,603,369	6,840	6,610,209
1876.....	5,842,947	2,086,642	7,929,589	6,908	7,936,497
1877.....	12,255,259	8,175,606	15,430,865	10,952	15,441,817
1878.....	13,200,925	8,011,650	16,212,575	7,559	16,220,134
1879.....	4,413,618	8,017,744	7,431,362	134,635	7,565,997
1880.....	4,232,331	2,230,442	6,512,823	90,991	6,603,814
1881.....	1,367,034	2,111,568	3,478,602	41,179	3,519,781
1882.....	2,307,620	2,142,500	4,450,210	36,005	4,486,215
1883.....	4,168,736	2,971,744	7,140,480	192,801	7,333,281
1884.....	4,936,985	4,404,574	9,341,559	5,260	9,346,819
1885.....	5,188,705	9,384,528	14,573,233	1,529	14,574,762

then some adequate conception may be had of the enormously bad bargain this country struck with China when the Burlingame treaty was made.

RESTRICTION ACTS.

Restriction acts have in the past proven mere delusions and snares. They do not meet the evil, but rather aggravate it by offering opportunities for their evasion through the crafty practices, fraudulent devices, and bold perjury of the criminal Chinese. They have only been placed on the statute-book to be evaded through perjury, chicanery, and fraud, and to have their efficiency destroyed by judicial and departmental construction in strained efforts to harmonize their provisions with the letter and spirit of the treaties.

This bill, unlike our restriction acts and proposed acts, is not elastic; it is absolutely iron-clad; it leaves nothing to construction; it is conclusive. It is not open to the objection of being liable to have its vitality sapped or its efficiency destroyed by judicial or departmental decision. No delicate questions as to conflict between act and treaty are left open for construction or determination by either court or department; all questions as to the power of consuls to issue certificates; all issues as to their

fraudulent character; all inquiries, judicial or otherwise, into the identity of the hundreds of Chinese who come regularly to our ports under claim that they have formerly resided here and are therefore under the restriction acts entitled to return, whose names are not only *idem sonans* as a rule but in person *facies omnibus una*, are wholly dispensed with. The premium held out by mere restriction acts to professional perjurers is withdrawn. The opportunity for the exercise of Chinese cunning, Mongolian chicanery, and Pagan prostitution of the forms of law to the base purposes of eluding the requirements of law, is forever taken away.

Restriction acts simply apply the knife in a rather delicate manner to some of the outer branches of the deadly upas tree, while the bill under consideration lays the ax with a determined and vigorous hand at all of its poisonous roots. Restriction merely is a harmless anodyne applied with a delicate brush to an incurable ulcer; prohibition is the surgeon's knife thrust vigorously beneath the festering sore. The one is simply boxing and fencing with an athletic giant-evil that is making rapid strides toward Mongolianizing the Pacific coast; the other is grasping that evil boldly and energetically and defiantly, but yet constitutionally, by the throat and downing it without form or ceremony. The one is a pretense and a fraud in that it assumes to be legislation in pursuance of treaty stipulations, when in fact it is in violation of them, while the other proclaims to the world that the treaty itself is a fraud upon American labor, on public justice, on public and private morality, and on American civilization, and as such it has become the duty of Congress to brush it aside. Our past experience on this subject has proven that restrictive legislation on this subject does not restrict, but rather, under its operation, the number of Chinese in this country is augmented. While the census of 1880 showed but about 105,000 Chinese all told in this country, the number now here, as ascertained by careful estimates in the various localities occupied, is not less than from 180,000 to 200,000.

If, therefore, this class of immigration is so objectionable as we all concede it to be, if it is so fraught with disaster to the best interests of our Republic and people, if its effect is so baneful, as we claim, on American labor, subordinating it to that of the cooly labor of Asia, if it is such a blight on public and private morals through its squalidness, wretchedness, and crimes; through its drain on the vitalizing currents of our financial, physical, and moral life; through the operation of all its vile instrumentalities, such as opium dens, houses of prostitution, and other snares of virtue and haunts of vice it has already established in startling numbers, not only in every city and town of the Pacific coast, but also in every city of any magnitude throughout the entire land; if, as is susceptible of abundant and conclusive proof, this immigration has transplanted from the hot-beds of moral and physical corruption in the depths of Asia new, detested, and nameless crimes, whose very touch is pollution, whose mention is forbidden in this presence, and whose infection is moral and physical death; and if again no great interest of trade or commerce is to be protected by withholding the blow necessary to its destruction, then why should Congress hesitate to rise at once, and without further delay, to the demands of the hour, and in the exercise of its constitutional power strike with unsparing hand a death-blow at the vitals of American civilization's direst foe? To hesitate in the presence of such a danger is to parley with the assassin and treat with the corrupting invader of home and fireside. It is to fire blank cartridges when full-weighted leaden bullets are demanded.

The conflict that is being waged on this subject of the Asiatic occupation of this country is as irrepressible as the conflict that resulted in the overthrow of human slavery. It is a conflict for supremacy on American soil between intelligent, enlightened, and honest American labor and the cheap and degraded labor of the lowest order of the Mongol; a conflict between morality and vice, order and anarchy, Americanism and Asianism; a conflict between civilization and heathenism, Christianity and paganism; a conflict between two opposing forces in all essential particulars non-assimilating and repellant when considered in the relation of the one to the other; and the one or the other of which must and will ultimately and necessarily be driven to the wall; nor does it require any peculiar prescience to determine the result of the contest, if the United States Government either stands supinely by and does nothing, or, what is but little more effective for good, simply attacks the advancing army of invaders with wooden swords and paper bullets under pretense of conforming to treaty stipulations and sustaining diplomatic relations.

Public opinion, when so nearly unanimous as it is on this subject, is not often wrong in this country and this age, and it is to-day, in a voice whose echo shall startle the empire and command the respect and approval of all civilized nations, demanding of Congress the enactment of a prohibitory law that will at once and forever end this great controversy and strangle this arch enemy of free labor, of law, order, tranquillity, and civilization itself.

I now move a reference of the bill to the Committee on Foreign Relations for their consideration.

The motion was agreed to.

The following is the bill:

In the Senate of the United States, February 11, 1886.

Mr. MITCHELL, of Oregon, introduced the following bill; which was read twice and ordered to lie on the table.

A BILL

Abrogating all treaties heretofore made and now operative between the United States Government and the Chinese Empire, in so far as they, or any of them, provide for, recognize, or permit the coming of Chinese to the United States, and in so far as they, or any of them, inhibit the United States from absolutely prohibiting the coming of Chinese to the United States; and repealing all acts of Congress, in so far as they, or any of them, recognize or permit the coming of Chinese to the United States; and absolutely prohibiting the coming of Chinese to the United States, excepting only diplomatic, consular, and other officers, and prohibiting the landing of any Chinese therein, excepting only such diplomatic and other officers.

Whereas, in the opinion of the Government of the United States, the treaty heretofore concluded between the United States of America and the Empire of China on the 17th day of November, 1880, and all prior treaties between the United States and China, especially that concluded in the year 1858, and the supplementary treaty concluded in the year 1868, in so far as they, or any of them, recognize or permit the coming of Chinese to the United States, and in so far as they, or any of them, inhibit the United States from absolutely prohibiting the coming of Chinese to the United States, have become and are pernicious to the peace, domestic tranquillity, and general welfare of the United States: Therefore,

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That all treaties between the United States Government and the Chinese Empire heretofore made and now in force, in so far as they, or any of them, recognize or permit the coming of Chinese to the United States, and in so far as they, or any of them, inhibit the Government of the United States from absolutely prohibiting the coming of Chinese to the United States, and all acts of Congress heretofore passed and now in existence, in so far as they, or any of them, in any manner, or under any terms, or upon any conditions, recognize or permit the coming to the United States of Chinese, whether

